

JUNE 3, 2020

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SPECIAL SESSION

Journal of the Senate

FIRST DAY

SENATE CHAMBER, TOPEKA, KANSAS
Wednesday, June 3, 2020, 8:00 a.m.

Pursuant to the Governor's notification of May 26, 2020, the Senate convened for a Special Session of the Kansas Legislature with President Susan Wagle in the chair.

PROCLAMATION CALLING THE LEGISLATURE INTO SPECIAL SESSION

TO THE PEOPLE OF KANSAS, GREETINGS:

WHEREAS, the COVID-19 pandemic presents unprecedented challenges to Kansans and to our state government; and

WHEREAS, this public health emergency has required the government to take emergency action to mitigate the spread of COVID-19, and through those actions and the individual conduct of Kansans, the daily numbers of new cases, hospitalizations, and deaths as a result of COVID-19 have been steadily decreasing, though new cases continue to arise and present new threats to the state; and

WHEREAS, the presence and threat of COVID-19 has wreaked economic destruction across Kansas' economy, with businesses closed, revenues plummeting, and unemployment rising at historic rates to historic levels; and

WHEREAS, a state of disaster emergency must be in place for the Division of Emergency Management and other state agencies to conduct emergency response activities such as providing medication, testing supplies, personal protective equipment, food assistance, and other essential emergency services across the state; and

WHEREAS, under the Emergency Management Act, a state of disaster emergency can extend for more than 15 days only with the consent of the State Finance Council or the Legislature; and WHEREAS, the stability of our economy and the safety of Kansans depend on the Legislature extending of the state of disaster emergency.

NOW, THEREFORE, I, LAURA KELLY, GOVERNOR OF THE STATE OF KANSAS, by the authority vested in me by the Constitution of the State of Kansas, do hereby call the Legislature of the State of Kansas into Special Session at the Capitol in Topeka, Kansas, on the 3rd day of June, 2020, at the hour of 8:00 o'clock a.m., to extend the state of disaster emergency and to enact appropriate amendments to the Emergency Management Act so as to provide for emergency response to the effects of the COVID-19 pandemic.

DONE: At the Capitol in Topeka
 under the Great Seal of the State
 this 26th day of May, A.D. 2020

BY THE GOVERNOR: Laura Kelly
Governor
 Scott Schwab
Secretary of State

In accordance with the provision of the Constitution of the Senate of the State of Kansas and the Proclamation as read, President Wagle called the 2020 Special Session of the Legislature to order:

Roll was called with 39 senators present.

Senator Suellentrop was excused.

Invocation by Reverend Cecil T. Washington:

Overcoming The Epidemic/Pandemic of Destruction!
 1Corinthians 15:36-48, 2Chronicles 7:14

Lord, we come before You today with turmoil all around us. And sometimes it's even in us; jolting many of us, at our foundation. Lord, we turn on the news and sometimes it looks like all hell is breaking loose. We see people displaying complete disregard for life and for liberty. We find ourselves arguing and rallying against inhumane behaviors. Yet we know that the rallies are not the real answer.

Like the Motown songwriter, people are asking the question, "What's Going On?"

Whether it's the physical virus of covid-19, or the spiritual and social virus of racism, the answer is not in the World Health Organization (WHO), the Center for Disease Control (CDC) or or any other earthbound, human entity.

The principle found in 1Corinthians 15:36-49, shows that a seed must die to bring forth life; that natural, physical concerns, come first. They then lead to supernatural, spiritual concerns. First the natural and its problems, then the spiritual and its solutions. Things that produce earth bound alarms prompt us to seek Heaven bound answers. So Lord, help us to look Heavenward. For You've already provided the prescription for overcoming covid and racism.

You did say, yes You did Lord, in 2Chronicles 7:14, that if Your people, those of us that claim to belong to You, would do four things; 1) humble ourselves, 2) pray to You, 3) look to You/seek Your face...4) turn from ways/behaviors that You call wicked and Then! THEN; Your ears would open, THEN You would hear our cries for Your help and heal our land.

Show us how to be brothers, just coming from different mothers. I humble myself and pray this prayer, turning from unpleasing ways. And in the Name of Jesus, I'm seeking Your face to provide healing. Amen!

The Pledge of Allegiance was led by President Wagle.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Wagle, Denning and Hensley introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1701—

A RESOLUTION relating to the organization of the Senate.

Be it resolved by the Senate of the State of Kansas: That the Secretary of the Senate notify the House of Representatives that the Senate is organized with the following officers:

Susan Wagle, president,
Jeff Longbine, vice-president,
Jim Denning, majority leader,
Anthony Hensley, minority leader,
Corey Carnahan, secretary,
Don Cackler, sergeant at arms,
and awaits the pleasure of the House of Representatives.

On emergency motion of Senator Denning **SR 1701** was adopted unanimously.

MESSAGE FROM THE HOUSE

Announcing adoption of **HCR 5001**, a concurrent resolution concerning a committee to be appointed to wait upon the governor and inform the governor that the two houses of the legislature are duly organized and are ready to receive any communications the governor may have to present.

The Speaker appointed Representatives Huebert, Burriss and Lusk as members of the committee.

Announcing adoption of **HR 6001**, a resolution relating to the organization of the 2020 House of Representatives for the Special Session and selection of the following officers:

Ron Ryckman, Speaker of the House
Blaine Finch, Speaker Pro Tem
Dan Hawkins, Majority Leader
Tom Sawyer, Minority Leader
Susan Kannarr, Chief Clerk
Foster Chisholm, Sgt. At Arms
and awaits the pleasure of the Senate.

INTRODUCTION OF HOUSE CONCURRENT RESOLUTION

HCR 5001, was introduced and read by title.

On emergency motion of Senator Denning, **HCR 5001** was adopted by voice vote.

President Wagle appointed Senators McGinn and Ware as members of the committee.

MESSAGES FROM THE GOVERNOR

Over the last few months Kansans have faced unprecedented challenges because of COVID-19. Through it all, Kansans have shown resiliency and compassion that has served as strong reminder that we are all in this together.

I have called this special session of the Legislature for a simple and clear purpose. During the COVID-19 pandemic our state must be able to respond to this emergency to protect the health and safety of Kansans, and keep our economy open. Our state is in a precarious position. Although we have made it through the initial peak of COVID-19 cases, and although the numbers have been trending steadily downward over the last several weeks, we must not be lulled into a sense of complacency.

We continue to learn more about this deadly virus every day, and the moment we let down our guard, we leave our state susceptible to a resurgence of the virus that could endanger the lives of Kansans and the working of our economy. As I have said before, the most important purpose of this special session is to ensure that our government can continue to respond as necessary to this evolving pandemic. That means extending the emergency declaration and making reasonable amendments to the Kansas Emergency Management Act. I believe we can accomplish these goals quickly and efficiently together.

I am heartened that in the days leading up to this special session legislators on both sides of the aisle have come together to work with my office to seek a bipartisan solution to the emergency management issues facing our state. Each side has given and taken in this process, and that is how government should work. The product will not be perfect in the eyes of either side, but it will work for Kansans – and that is our job.

Every state lawmaker should embrace the opportunity to work together in a bipartisan fashion to keep Kansans safe. Their efforts can be historic in not only helping today's Kansans, but also future generations who also will face the tragic toll of unexpected disasters.

We will continue to face these challenges together as we work towards our economic recovery. I look forward to working with the Legislature to pass emergency legislation that is in the best interests of all Kansans. It is what Kansans expect of us as leaders – and it's what Kansans deserve.

Respectfully,
LAURA KELLY
Governor

President Wagle announced that the following documents are on file in the office of the Secretary of the Senate and are available for review at any time.

Enclosed herewith is Executive Directive No. 20-516 for your information. (May 20, 2020)

Enclosed are Executive Orders 20-35, 20-36, 20-37, 20-38, 20-39, 20-40, 20-41, 20-42, 20-43 and 20-44 for your information. (May 26, 2020)

Enclosed herewith is Executive Directive No. 20-517 for your information. (June 2, 2020)

May 27, 2020

To the Senate of the State of Kansas:

Submitted herewith for confirmation by the Senate are appointments made by me as the Governor of the State of Kansas, pursuant to law.

LAURA KELLY
Governor

Judge, Kansas Court of Appeals, Carl Folsom III, Lawrence, KS, Democrat, pursuant to the authority vested in me by K.S.A. 20-3020(a) and effective upon the date of confirmation by the Senate, to serve a four-year term subject to retention for successive terms by public vote, to succeed Judge Joseph Pierron, Jr.

REFERENCE OF APPOINTMENTS

President Wagle referred the appointment, Carl Folsom III, made by the Governor and submitted to the Senate for confirmation, to the Committee on **Judiciary**.

POINT OF PERSONAL PRIVILEGE

Senator Francisco rose on a Point of Personal Privilege to share the news that her nephew, Christopher Francisco, graduated from the Navy Officer Candidate School. He has been assigned to be the supply officer on the USS Topeka.

On motion of Senator Denning, the Senate recessed until the sound of the gavel.

The Senate met pursuant to recess with Vice President Jeff Longbine in the chair.

On motion of Senator Denning, the Senate recessed until 1:30 p.m.

AFTERNOON SESSION

The Senate met pursuant to recess with President Wagle in the chair.

On motion of Senator Mike Petersen, the Senate recessed until the sound of the gavel.

The Senate met pursuant to recess with President Wagle in the chair.

REPORTS OF STANDING COMMITTEES

Committee on **Judiciary** begs leave to submit the following report:

The following appointment was referred to and considered by the committee and your committee reports without recommendation to the Senate such appointment:

By the Governor:

Judge, Court of Appeals: K.S.A. 2019 Supp. 20-3020

Carl Folsom, III, to fill a term expiring on January 10, 2022

CONSIDERATION OF APPOINTMENTS

In accordance with Rule 55, the following appointment submitted by the Governor to the Senate for confirmation was considered.

Senator Denning moved the following appointment without recommendation by the Committee on **Judiciary**.

By the Governor

On the appointment to the:

Kansas Court of Appeals:

Carl Folsom

On roll call, the vote was: Yeas 18; Nays 17; Present and Passing 4; Absent or Not Voting 1.

Yeas: Bollier, Bowers, Denning, Doll, Faust-Goudeau, Francisco, Haley, Hardy, Hawk, Hensley, Holland, Longbine, McGinn, Miller, Petty, Skubal, Sykes, Ware.

Nays: Alley, Baumgardner, Billinger, Braun, Estes, Goddard, Hilderbrand, Kerschen, Lynn, Masterson, Olson, Petersen, Pyle, Thompson, Tyson, Wagle, Wilborn.

Present and Passing: Berger, Givens, Rucker, Taylor.

Absent or Not Voting: Suellentrop.

The appointment was not confirmed.

EXPLANATION OF VOTE

Madam President: No one in the Judiciary committee hearing on the nomination of Mr. Folsom was, in my opinion, attempting to characterize or equate him with the criminals he was tasked to defend as was suggested. Mr. Folsom was doing the job he was assigned and performed it to the best of his abilities. My concern is over his lack of breadth and depth of experience. He admittedly lacks the civil and prosecutorial experience that would be instructive to his decisions at the appellate level. This (the appellate court) is not the place for on the job training. Bad decisions can have long term consequences for persons coming before the court. In addition, I am concerned about his decision making process with regard to the "rule book"...the constitution, which, in my opinion should be the ultimate guide for all court decisions. Otherwise, the law becomes a moving target, subject to the whims of the jurist...rather than the text of the constitution. For the above stated reasons, I vote no.—MIKE THOMPSON

Senator Braun requests the record to show he concurs with the "Explanation of Vote" offered by Senator Thompson.

Having voted on the prevailing side, Senator Pyle moved to reconsider the previous action. The motion failed.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 1, AN ACT concerning workers compensation; relating to occupational diseases; COVID-19; amending K.S.A. 2019 Supp. 44-5a01 and repealing the existing section, by Senator Hensley.

SB 2, AN ACT concerning property taxation; relating to buildings and improvements destroyed or substantially destroyed by natural disaster; amending K.S.A. 79-1613 and repealing the existing section, by Senator Holland.

SB 3, AN ACT concerning taxation; relating to exemptions from sales and compensating use taxes; enacting the COVID-19 state tax abatement and relief act; temporary exemption period, by Senator Thompson.

SB 4, AN ACT concerning taxation; relating to income tax, enacting the Kansas taxpayer protection act regulating paid tax return preparers, extending certain return filing and tax payment deadlines; property taxation, rates, truth in taxation and establishing notice and public hearing requirements prior to approval to exceed revenue neutral rate, discontinuing the city and county tax lid, delaying the time for payment of real property and personal property taxes, providing for waiver of interest and fees for late property tax payments for a certain period of time, extending the time for listing and publication of delinquent real estate subject to sale, prohibiting valuation increase of real property solely as the result of normal repair, replacement or maintenance, establishing a payment plan for the payment of delinquent or nondelinquent taxes;

amending K.S.A. 79-1110, 79-1460, 79-1801, 79-2024, 79-2302, 79-2303, 79-2925c, 79-3221 and 79-3225 and repealing the existing sections, by Senators Tyson, Alley, Baumgardner, Berger, Braun, Goddard, Hilderbrand, Kerschen, Lynn, Olson, Petersen, Rucker, Thompson and Wagle.

SB 5, AN ACT concerning education; creating the Kansas promise scholarship act; requiring a Kansas foster care children annual academic report card; authorizing the state board of regents on behalf of Kansas state university to sell certain real property in Saline county; authorizing school districts to pay tuition and fees for concurrent and dual enrollment of students; requiring tuition waiver for dual or concurrently enrolled foster students; authorizing the practice of the healing arts by healing arts school clinics; providing ACT college entrance exams and workkeys assessments to nonpublic school students; amending K.S.A. 65-2877a, as amended by section 5 of chapter 52 of the 2019 Session Laws of Kansas, 72-3220, 72-3221, 72-3222, 72-3223, 72-3224 and 75-53,112 and K.S.A. 2019 Supp. 17-2707, 17-7668 and 72-5179 and repealing the existing sections, by Senators Baumgardner, Alley, Berger, Braun, Goddard, Hilderbrand, Lynn, Olson, Petersen, Rucker, Thompson and Tyson.

SB 6, AN ACT concerning crimes, punishment and criminal procedure; relating to early release and house arrest of certain inmates due to COVID-19 pandemic; terms of release, by Senator Haley.

SB 7, AN ACT concerning governmental response to the 2020 COVID-19 pandemic in Kansas; providing certain relief related to health, welfare, property and economic security during this public health emergency; making and concerning appropriations for the fiscal years ending June 30, 2020, and June 30, 2021, for the governor's department; requiring the state finance council's approval for certain expenditures; relating to the state of disaster emergency; powers of the governor and executive officers; providing certain limitations and restrictions; business and commercial activities; violations of the Kansas emergency management act; relating to the closure of schools by executive order; requiring state board of education approval prior to any such closure; enacting the COVID-19 response and reopening for business liability protection act; relating to limitations on liability associated with the COVID-19 public health emergency; providing immunity from civil liability for certain healthcare providers during the COVID-19 public health emergency; providing an affirmative defense for adult care homes; enacting the COVID-19 contact tracing privacy act; relating to privacy of persons whose information is collected through contact tracing and the confidentiality of contact data; authorizing the secretary of health and environment and local health officers to establish and operate systems of contact tracing during the COVID-19 pandemic; validating certain notarial acts performed while the requirements that a person must appear before a notary public are suspended; requiring local health officers to share certain information with first responder agencies and 911 call centers; imposing requirements on the Kansas department for aging and disability services related to infection prevention and control practices and recommendations, infection control inspections and providing personal protective equipment; authorizing the expanded use of telemedicine in response to the COVID-19 public health emergency and imposing requirements related thereto; suspending certain requirements related to medical care facilities and expiring such provisions; providing for temporary suspension of certain healthcare professional licensing and practice requirements; delegation and supervision requirements; conditions of licensure and renewal and reinstatement of licensure;

relating to authorized use of two-way electronic audiovisual communication by courts to secure the health and safety of court users, staff and judicial officers; authorizing the temporary sale of alcoholic liquor for consumption off of certain licensed premises; relating to changes in the employment security law in response to the COVID-19 public health emergency; eligibility for benefits; contribution rates; federal reimbursement; employer notifications; shared work plan eligibility; authorizing counties to adopt orders relating to public health that are less stringent than statewide executive orders; relating to review, amendment or revocation of local disaster orders by the board of county commissioners; review, amendment or revocation of local disaster orders of a mayor by a city governing body; relating to local health officers; appointment, removal, powers and duties; providing for severability of this act; amending section 1 of 2020 House Substitute for Senate Bill No. 102, K.S.A. 48-924, 48-932, 48-939, 65-201, 65-202 and 65-468 and K.S.A. 2019 Supp. 19-101a, 41-2653, 44-702, 44-705, as amended by section 2 of 2020 Senate Bill No. 27, 44-709, 44-710, 44-757, 48-925 and 48-925, as amended by section 33 of this act, and repealing the existing sections, by Committee on Judiciary.

SB 8, AN ACT concerning governmental response to the 2020 COVID-19 pandemic in Kansas; providing certain relief related to health, welfare, property and economic security during this public health emergency; making and concerning appropriations for the fiscal years ending June 30, 2020, and June 30, 2021, for the legislative coordinating council and the governor's department; relating to the state of disaster emergency; powers of the governor and executive officers; providing certain limitations and restrictions; business and commercial activities, local health officials; violations of the emergency management act; enacting the COVID-19 response and reopening for business liability protection act; relating to limitations on liability associated with the COVID-19 public health emergency; providing immunity from civil liability for healthcare providers during the COVID-19 public health emergency; validating certain notarial acts performed while the requirements that a person must appear before a notary public are suspended; requiring county health officers to share certain information with first responder agencies and 911 call centers; imposing requirements on the Kansas department for aging and disability services related to infection prevention and control practices and recommendations, infection control inspections and providing personal protective equipment; authorizing the expanded use of telemedicine in response to the COVID-19 public health emergency and imposing requirements related thereto; suspending certain requirements related to medical care facilities and expiring such provisions; providing for temporary suspension of certain healthcare professional licensing and practice requirements; delegation and supervision requirements; conditions of licensure and renewal and reinstatement of licensure; relating to authorized use of two-way electronic audiovisual communication by courts to secure the health and safety of court users, staff and judicial officers; authorizing the temporary sale of alcoholic liquor for consumption off of certain licensed premises; relating to changes in the employment security law in response to the COVID-19 public health emergency; eligibility for benefits; contribution rates; federal reimbursement; employer notifications; shared work plan eligibility; authorizing counties to adopt orders relating to public health that are less stringent than statewide executive orders; requiring the board of county commissioners to approve orders of a local health officer; requiring city governing bodies to approve local disaster orders of the mayor; providing

for severability of this act; amending section 1 of 2020 House Substitute for Senate Bill No. 102, K.S.A. 48-924, 48-932, 48-939, 65-201, 65-202 and 65-468 and K.S.A. 2019 Supp. 19-101a, 41-2653, 44-702, 44-705, as amended by section 2 of 2020 Senate Bill No. 27, 44-709, 44-710, 44-757 and 48-925 and repealing the existing sections, by Committee on Judiciary.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The President referred **SB 1** to the Committee on **Commerce**.

The President referred **SB 2, SB 3, SB 4** to the Committee on **Assessment and Taxation**.

The President referred **SB 5** to the Committee on **Education**.

The President referred **SB 6, SB 7, SB 8** to the Committee on **Judiciary**.

On motion of Senator Denning, the Senate recessed until the sound of the gavel.

The Senate met pursuant to recess with Senator Billinger in the chair.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2016**.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2016 was thereupon introduced and read by title.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The President referred **HB 2016** to the Committee on **Judiciary**.

On motion of Senator Denning, the Senate adjourned until 8:00 a.m., Thursday, June 4, 2020.

CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks*.
COREY CARNAHAN, *Secretary of the Senate*.

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